

REMARKS

Applicants have carefully considered the Office Action dated July 15, 2004 regarding the above-identified application. The Action was an *Ex parte Quayle* type Action, in which the Examiner entered only formal objections. There were no substantive rejections of any elected claims. The amendments above and the accompanying replacement drawing sheets are submitted in a bona fide effort to respond to the formal objections and to address all issues raised in that Action.

It is noted that the Examiner graciously allowed elected claims 7-10, 14-17 and 19-21. The various non-elected claims have been cancelled, although those claims will soon be the subject of new continuing filings. All claims remaining in this application therefore stand allowed.

The Action included an objection to the title. A new more descriptive title "Optical Disc Apparatus Switching Focus Point Between Layers" is submitted above. It is respectfully requested that the Examiner withdraw the objection in view of the amendment to the title.

The Action included an objection to the Abstract of the Disclosure, for use of legal phraseology. A new Abstract is provided above, which does not include legal terms such as "object," "invention" or "means." It is respectfully requested that the Examiner withdraw the objection in view of the new Abstract of the Disclosure.

The Action also included an objection to the drawings, on the ground that Figs. 2A to 2D, 3, 4A and 4B represented 'conventional' subject matter but were not properly labeled as "Prior Art." It is also noted that the sub-parts of Figs. 2 and 4 were not separately labeled. With this response, Applicants are submitting replacement drawing sheets containing Figs. 2, 3 and 4. The drawings forming Fig. 2 are now labeled separately as Figs. 2(a) to 2(d), and the drawings forming Fig. 4 are now labeled separately as Figs. 4(a) and 4(b). Also, Figs. 2(a) to 2(d), 3, 4(a) and 4(b) have all been

labeled as "Prior Art." It is respectfully requested that the Examiner approve the changes to these drawings, enter the replacement sheets and withdraw the objection to the drawings.

The detailed Action also included a statement of reasons for allowance, in paragraph number 7. Essentially, the statement expressed a single rationale for allowance of all of the elected claims. It is respectfully submitted that each independent claim, and in fact each allowed claim, is separately patentable. Although each independent claim includes somewhat similar wording on the point noted in the statement, the wording of the independent claims is not identical, and it should not be assumed that the scope of each independent claim is identical. Also, all of the claims have been allowed in the first action on the merits, without any rejection. Some of the claims are original (unamended), and those that were amended in the preliminary amendment were only amended for clarity and were not substantively narrowed. Hence, the claims stand allowed without any narrowing amendments and without any specific comments attributable to Applicants with regard to patentability. For these reasons, it is respectfully submitted that the allowed claims should be entitled the broadest reasonable interpretation and the broadest range of equivalents that are appropriate in light of the language of the claims and the supporting disclosure, without reference to the statement of reasons for allowance.

All remaining claims have been indicated allowable in the Action. All formal objections are overcome by the changes entered via this response. Accordingly, this case should now be ready to pass to issue; and Applicants respectfully request a prompt favorable reconsideration of this matter.

It is believed that this response addresses all issues raised in the July 15, 2004 Office Action. However, if any further issue should arise that may be addressed in an interview or by an Examiner's amendment, it is requested that the Examiner telephone Applicants' representative at the number shown below.

Serial No.: 09/935,795

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT WILL & EMERY LLP

A handwritten signature in black ink, appearing to read "Keith E. George". The signature is fluid and cursive, with a long horizontal stroke at the end.

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